

**HEARING AID DISPENSERS BUREAU**

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Advertising Guidelines for Hearing Aid Dispensers

Sections 651, 3301, 3401(f), and 3428 of the California Business and Professions Code and Section 1399.127 of Title 16 of the California Code of Regulations address advertising issues. This summary of the applicable laws and regulations are presented as a guideline to help dispensers understand the law. Any dispenser who violates Section 651 is guilty of a misdemeanor. Violation of any of these sections of the law constitutes cause for license denial, revocation or suspension, or other disciplinary action.

Advertising and Public Communication Defined

- Section 3301 of the Business and Professions Code states that advertising includes the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio or television announcement, or any other method used to call attention to the practice of fitting or selling of hearing aids.
- Section 651 of the Business and Professions Code states that "public communication" includes, but is not limited to, communication by mail television, radio, motion picture, newspaper, book, Internet, or other electronic communication, list or directory, and that this includes business cards, announcement cards, office signs, letterhead, telephone directory listings, professional lists, professional directory listings, and similar professional notices.

Prohibited Under the Law

- Advertising or public communication which is a false, fraudulent, misleading, or deceptive statement. [Section 651]
- Using the term "doctor," "physician," "clinic," or "audiologist" or any variation of these terms, unless authorized by law. [Section 3401 (f)]
- Advertising without a valid license. [Section 3428]

Required Under Section 651

- Price advertising must be exact, without the use of phrases like "as low as," "and up," "lowest prices," or words or phrases with similar meaning.
- Any advertisement using words of comparison must be based on verifiable data substantiating the comparison.
- In price advertising, the price for each product or service must be clearly identifiable.
- The price advertised for a product must include charges for related professional services, including dispensing and fitting services, unless the advertisement clearly states otherwise.
- You may not compensate or give anything of value to a representative of the press, radio, television, or other communication medium for professional publicity unless the fact of compensation is made known in the publicity.

Advertising Content Permitted, but Not Required Under Section 651

- Name of the licensed hearing aid dispenser and address and telephone number of his/her office.
- Office hours.
- Statement of languages, other than English, fluently spoken by the licensed hearing aid dispenser or another person in his/her office.
- Statement that the dispenser is certified by a private or public board or agency.
- Statement that the dispenser provides services under a specified private or public insurance or health care plan.
- Statement of names of schools and training programs from which the dispenser has graduated, together with the degrees received from those schools or programs, if relevant to the practice of hearing aid dispensing.
- Statement of publications authored by the dispenser.
- Statement of teaching positions currently or formerly held by the dispenser including pertinent dates.
- Statement of affiliations with hospitals or clinics.
- Statement of charges or fees for services or commodities offered by the dispenser
- Statement that installment payments are accepted.
- Otherwise lawful photos or drawings of the dispenser, his/her office, or the hearing aid advertised.
- Statement of the manufacturer, designer, style, model, trade name, brand name, color, size, or type of hearing aid advertised.
- Statement providing public health information encouraging preventative or corrective care.
- Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

Applying the Law

Price Advertising

- Section 651 of the Business and Professions Code requires that price advertising must be exact; that is, any conditions or other variables to an advertised price must be disclosed.
- Section 651 requires that statements of comparison be based upon verifiable data. In price advertising, a sale price is a comparison with the regular price. Therefore, whenever a sale price is questioned the dispenser must be able to provide data verifying the price break as compared with the regular price.
- An advertisement violates Section 651 of the code when it:
 - (1) Is not exact, and any conditions or other variables to an advertised price are not disclosed.
 - (2) Includes a statement of price comparison that is not based upon verifiable data.
 - (3) Advertises a discount in a false or misleading manner, including but not limited to, failing to disclose the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer.

When advertising a specific hearing aid model:

Correct: 50% off Acme Model 12
 Regularly \$1000, Now \$500

Incorrect: 50% off Acme hearing aid

When advertising a category of hearing aids (e.g. all models from one manufacturer, or all BTE models):

Correct: 50% off Manufacturer's Suggested Retail Price

All Acme Hearing Aids

Incorrect: Acme Hearing Aids - 50% Off

Correct: 50% off Manufacturer's Suggested Retail Price, All Hearing Aids
offer good January 1-7, 1998 (or Offer expires January 7, 1998)

Incorrect: 50% off Manufacturer's Suggested Retail Price, All Hearing Aids

Caution: If you are considering comparing the price you advertise with a manufacturer's suggested retail price, you should seek legal advice from private counsel.

Business Names

- Business names should not be so broad as to connote comprehensive and diagnostic hearing services, unless the dispenser is also licensed as a physician or audiologist.

Correct: Delta Hearing Aid Center

Incorrect: Delta Hearing Center

Hearing Tests

- Dispensers should not advertise hearing tests without qualification since the words "hearing test" suggest comprehensive, diagnostic testing not within a hearing aid dispenser's scope of practice.

Correct: Test to determine if you could be helped by a hearing aid

Incorrect: Hearing test

Direct Mail Solicitation

- Sending consumers preset appointment information or "rebate coupons", as part of a direct mail solicitation is prohibited because it is deceptive and misleading.

Educational Credentials, Schools, and Programs

- Dispensers may include an educational degree but must include the degree and field. Dispensers may not use the title "Dr." where the degree is a non-medical doctorate unless the ad discloses that fact.

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Correct: John Doe, Ph.D. in Audiology Jane Doe, M.A. in Audiology

John Doe, Ph.D. (Audiology)

Jack Doe, B.A. (Audiology)

Incorrect: Dr. John Doe

Jane Doe, M.A.

Dr. John Doe (Audiology)

Jack Doe, B.A.

- Dispensers should advertise or display only schools, programs, and degrees relevant to the practice of hearing aid dispensing.
- Dispensers may not include abbreviations for job titles or job certifications as letters after a name where those letters do not represent an academic degree or credential.

Certification by Professional Organizations

- If an advertisement refers to a dispenser's certification by a professional organization, it must include the name of the certifying organization and should be written in a manner that can be easily understood by consumers.

Correct: John Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
NB-HIS, Certified by the National Board of Certification in
Hearing Instrument Sciences
Incorrect: John Doe, NB-HIS

Use of “Dispenser” and “Specialist

- The licensing law provides for licensing hearing aid “dispensers”, not “specialists,” therefore, dispensers must use the title “hearing aid dispenser” whenever referring to licensure.

Correct: Jane Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Dispenser

John Doe, Hearing Instrument Specialist
Hearing Aid Dispenser Lic. No. HA-xxxx
Incorrect: Jane Doe, Hearing Aid Specialist Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Specialist

National Advertising

- National advertising run in California should comply with California law and regulations.

Yellow Pages Advertising

- Yellow pages advertising must comply with advertising law.

Regarding Licensure

- A license number consists of an alphabetical prefix and numerical suffix, for example “HA-xxxx.” Omission of the “HA” or “HT” prefix results in an incomplete license number and is viewed as misleading or deceptive advertising.

Anonymous Advertising

- To avoid allegations of misleading or deceptive advertising, hearing aid dispensers should not utilize anonymous or blind advertising, but should disclose the name of the business or dispenser in each ad.

Correct: For information on how you can be helped by a hearing aid, call John Doe,
licensed hearing aid dispenser, at Delta Hearing Aid Center, (123) 123-4567.

Incorrect: If you have a hearing problem, call 123-4567.